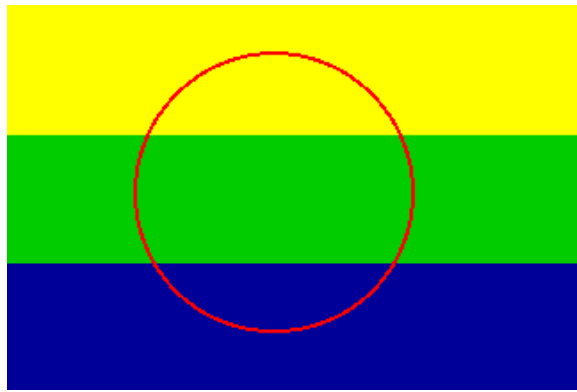


Conflict of Interest

PEGUIS FIRST NATION



Adopted: BCR 09/04/29

PEGUIS FIRST NATION

Conflict of Interest Policy

APPLICATION

- 1 This Conflict of Interest Policy applies to the Peguis First Nation Chief and Councillors, the employees of Peguis First Nation, its agencies, and other entities including committees, boards, commissions and corporations unless otherwise provided by Minutes of Council.

DEFINITIONS

- 2 The following definitions apply:
 - (a) “**Chief and Council**” and “**council**” means the Peguis First Nation leadership consisting of one Chief and Councillors;
 - (b) “**conflict of interest**” means, but is not limited to, a personal interest in any matter that is in direct conflict with the duties and responsibilities of an employee;
 - (c) “**dismissal**” is a disciplinary action involving the termination of services usually without normal notice or benefits, and imposed for just cause;
 - (d) “**member**” means an individual whose name appears on the Peguis First Nation membership list;
 - (e) “**membership**” means all members;
 - (f) “**policy**” means a program of actions adopted by the Council of the Peguis First Nation and the principles upon which they are based;
 - (g) “**related person**” means the spouse (legal or common law), parents, grandparents and siblings of the individual, parents or grandparents (natural, adopted or step), children (natural or adopted) of either the individual or of the spouse, and shall also include any other relative permanently residing in the person’s household;
 - (h) “**service area**” means an administrative division of the Peguis First Nation Government as established from time to time by the Council and includes branches, departments, administrative units and other internal organizational units of the Peguis First Nation administration;

INTRODUCTION

- 3 Any person who holds an office, including that of Chief or Councillor, or is an employee of the Peguis First Nation, its service areas or agencies, shall not use that office or employment for financial gain for himself or herself or for the members of his or her family to the detriment of the interests of the Peguis First Nation.

PARTICULARS

- 4 “Financial benefit” or “financial interest” or “conflict of interest” for the purposes of this Policy means a monetary, material or any other direct or indirect financial benefit received, or to be received, by an individual or to a related person beyond the benefits normally provided to the Peguis First Nation or its membership as a whole.
- 5 In this policy "financial benefit" includes, but is not limited to:
- (a) employment benefits;
 - (b) contract benefits;
 - (c) educational, medical or other social benefits;
 - (d) honorariums;
 - (e) the payment of any money; or
 - (f) the allotment, leasing or other grant of an interest in Band lands.
- 6 A Conflict of Interest will arise when:
- (a) a person exercises an official power or performs an official duty or function in the execution of his or her office, job or committee and at the same time knows, or ought to know, that in the performance of the duty or function or in the exercise of the power there is opportunity to receive a financial benefit or to provide a financial benefit to himself or herself or to a related person; or
 - (b) A person’s personal interests supersede or compete with his or her dedication to the best interests of the Peguis First Nation
- 7 A Conflict of Interest will not arise if a financial benefit is intended or extended at the same time:
- (a) to membership; or
 - (b) a group of members who are identifiable by reference to age, gender, financial circumstances, or medical needs, or to Council as a whole.
- 8 Where a person might be in conflict of interest, the person shall disclose his or her financial interest prior to the making of a decision, and the person shall leave the room and shall not participate in the discussion or the decision.
- 9 A person shall disclose to the Council any financial interest that he or she has in any matter before the Council, shall leave the room and shall not take part in any deliberations of the Council on that matter or vote in the matter.
- 10 Where a disagreement arises as to whether the person has a financial interest in a matter before the Council, the Council shall decide by vote whether the said person has such an interest. If the person is the Chief or a Councillor, then the Chief or Councillor in question may not take part in the vote and shall leave the room.

- 11 In the case of a proposed contract with the Peguis First Nation, the person shall disclose his or her interest at the Council meeting at which the question of entering into the contract is first taken into consideration.
- 12 If the person becomes financially interested in the proposed contract, the person shall disclose his or her interest at the next meeting of the Council held after he or she becomes so interested.
- 13 Where a person becomes financially interested in a contract with the Peguis First Nation after it is made, he or she shall disclose his or her interest at the first Council meeting held after he or she becomes so interested.
- 14 Without limiting the generality of section 9 and subject to section 15, a person shall be deemed to have a financial interest in a matter where he or she, or his or her related person has an interest in an enterprise or in a partnership, company or corporation having or proposed to have a contract or dealings with the Peguis First Nation
- 15 A person shall be deemed not to have a financial interest in the case of any contract made by, or on behalf of, the Peguis First Nation to give a person any security for advances made on behalf of the Peguis First Nation or by way of indemnity for actions taken on behalf of the Peguis First Nation
- 16 If a person has breached the provisions of this policy that person may be:
 - (a) suspended from all privileges and benefits of office or from employment for a period of time;
 - (b) demoted or reassigned to another position; or
 - (c) dismissed from office or employment.
- 17 Where section 16 applies, the decision with respect to an employee shall be made in accordance with the Personnel Policy of the Peguis First Nation.
- 18 Where section 16 applies, the decision with respect to an office holder shall be made accordingly to the Policy of the Peguis First Nation governing conduct of elected and appointed officials.
- 19 A decision made under section 17 must be made fairly and in accordance with the rules of natural justice, including the following:
 - (a) the person who is alleged to have violated a disclosure of financial interest provision must have the opportunity to hear the allegation and provide an answer before a final decision is made, and
 - (b) the person or persons making the decision on an alleged failure to disclose a financial interest shall make that decision without any influence or bias.
- 20 The Council may approve policies and procedures in order to give effect to the provision of this policy.

- 21 Any contract involving the receipt or expenditure of Peguis First Nation funds is void where the person approving the contract or a related person has a financial interest in the contract unless it is reconfirmed by the Council notwithstanding the existence of the financial interest.
- 22 The disclosure of financial interest rules contained in this Policy must be read in accordance with any similar rules contained in any policy of the Peguis First Nation
- 23 Prior to approving a financial benefit to a Councillor, the Council will determine whether the financial benefit is consistent with this policy and is consistent with standards of other federal governing boards.
- 24 Persons will arrange their private affairs and conduct themselves in a manner to avoid a conflict of interest.
- 25 Where a person is unsure of whether he or she has a conflict of interest, the person will raise the perceived conflict of interest with the Council, and the Council will decide whether a conflict of interest exists.
- 26 A person with a conflict of interest will:
- (a) not take part in the discussion of or vote on any question in respect of the matter;
 - (b) immediately leave the meeting or the part of the meeting during which the matter is under consideration;
 - (c) not sign a Band Council Resolution or letter in respect of the matter;
 - (d) not attempt in any way, whether before, during or after the meeting, to influence the opinion or vote of the Council on any question in respect of the matter; and
 - (e) not attempt in any way to influence the employee, board or committee member in carrying out his or her duties.
- 27 Any person who fails to or makes an incomplete disclosure of a conflict of interest will pay to the First Nation a sum of money equal to the value of any and all financial gain the Councillor or related person received and benefited from the undisclosed Conflict of Interest notwithstanding any other disciplinary action the Council may take.

APPEAL PROCEDURE

- 28 A person found to have failed to disclose a conflict of interest but who disagrees with the finding, may appeal to the Redress Committee.

FREQUENTLY ASKED QUESTIONS

Who is covered by this policy?

The policy is intended to cover all people governing, or working for the Peguis First Nation, and includes all employees of the band, its organizations and corporations, all board and committee members and Chief and Council.

What is a conflict of interest?

A conflict of interest is any situation in which an employee has a private or personal interest that results in or creates the appearance of improperly influencing the performance of their official duties and responsibilities.

Why is it necessary?

It is necessary to assure the citizens of Peguis First Nation that the people they elect to office and its employees and the entities it controls are acting in their best interests.

What are the responsibilities of the employee?

Employees have an obligation to review the interaction between their duties and responsibilities and their private and personal interests on a regular basis to ensure that they do not conflict.

Employees must ensure new or changed duties and responsibilities, organizational relationships and/or responsibilities, or private or personal interest situations are dealt with in accordance with this policy.

Responsibility for the disclosure of conflict of interest situations rests with the individual. This ongoing obligation begins, but does not end, when an employee is first employed and required to disclose any conflicts.

How are conflicts of interest to be dealt with?

Should an employee suspect he or she is, or might be, in a conflict of interest situation, the individual should take appropriate measures immediately to initiate the disclosure process.

If there is uncertainty regarding a conflict of interest, employees are encouraged to discuss the situation with their manager or human resources. If the situation cannot be resolved, employees should complete a disclosure statement.

What is disclosure and how does it work?

Disclosure is a confidential procedure to protect both the employee and the employer from unfair or improper allegations of conflict of interest. It requires an employee who suspects he or she is or might be in a conflict of interest to prepare a written statement of relevant facts for his or her manager. Senior managers must declare conflicts or perceptions of conflict to Council.

What are the consequences of violating this policy?

Where an employee is found to be in a conflict of interest situation as a result of an inappropriate conduct, disciplinary action may result up to and including dismissal.

Failure to address a conflict of interest appropriately may result in disciplinary action up to and including dismissal.

What if an employee disagrees that he or she was in a conflict of interest?

Any employee, who disagrees with a decision of a conflict of interest, may appeal the finding to the Redress committee.